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MAR 31 2005

In re Application of
Mark J. Whalen et al
Application No. 10/822,546 : ON PETITION
Filed: April 12, 2004
Attorney Docket No. 25064/104/102

OFFICE OF PETITIONS

This is a decision on the paper filed October 1, 2004, which is being treated as a petition under 37 CFR 1.53.

The petition is Dismissed.

The application was deposited on April 12, 2004. However, on July 29, 2004, the Office of Initial Patent Examination Division mailed a "Notice To File Missing Parts Of Nonprovisional Application," stating that Figures 5-7 were omitted from the application on filing.

In response, on October 1, 2004, the instant petition and seven (7) sheets of formal drawings were submitted as described in the specification. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of nine (9) sheets of drawings on April 12, 2004. A review of the application file indicates the presence of only six (6) sheets of drawings with the sheets containing Figures 5-5A, 6, 6A-6C and 7 missing.

MPEP 503 states that “A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.”

However, since the drawings cannot be located in the Office, petitioner is prevailed upon to submit a copy of the original drawings submitted on April 12, 2004 to include Figures 5-5A, 6, 6A-6C and 7. The Office recognizes the seven (7) sheets of drawings submitted with the instant petition on October 1, 2004. A copy of the original drawings submitted on April 12, 2004, is needed to be placed in the application file and for the Office to compare with the drawings submitted on October 1, 2004.

Further correspondence with respect to this matter should be addressed as follows:

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